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No. 92-1123

Supreme Court, U.S.
FILED

MAY 10 1993

OFFICE OF THE CLERK

IN THE
Supreme Court of the United States
OCTOBER TERM, 1993

IZUMI SEIMITSU KOGYO KABUSHIKI KAISHA,
Petitioner,

—v.—

U.S. PHILIPS CORPORATION, NORTH AMERICAN PHILIPS
CORPORATION, N.V. PHILIPS GLOEILAMPENFABRIEKEN and
WINDMERE CORPORATION,

Respondents.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

**OPPOSITION OF PHILIPS RESPONDENTS TO MOTION OF
SEARS, ROEBUCK & CO. TO FILE AN AMICUS CURIAE BRIEF**

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May 11, 1993

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The Philips Respondents¹ oppose the motion of Sears, Roebuck & Company ("Sears"), filed April 22, 1993, for leave to file a brief *amicus curiae* in support of Petitioner, Izumi Seimitsu Kogyo Kabushiki Kaisha ("Izumi").

Although Sears now claims that it has "an immediate and substantial interest in this Court's reversal of the Federal Circuit decision" (Sears Mot. at ii), it made no effort to appear and assert its "interest" in the Federal Circuit or to

¹ U.S. Philips Corporation, North American Philips Corporation and N.V. Philips Gloeilampenfabrieken, hereinafter referred to as "Philips".

intervene in that appeal. Its Illinois counsel,² who was also Izumi's counsel, made a deliberate decision to do nothing.

Sears' only possible "interest" in the proceeding before this Court arises from its status as a party to the Illinois action. Izumi's Brief on the Merits contains a comprehensive discussion of how vacatur might impact the Illinois action, and Sears has not raised any other issues in its brief that have not already been raised by Izumi.

Moreover, Sears does not claim and there is no reason to believe that its indemnitor, Izumi, is not adequately arguing Sears' position or that "facts or questions of law" exist that have not been "presented by the parties" (Sup. Ct. R. 37.4).

The motion of Sears to file an *amicus* brief should be denied.

Respectfully submitted,

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Counsel for Philips Respondents

May 11, 1993

² Counsel of record for Sears in this Court was the initial counsel for Sears and Izumi in the related Northern District of Illinois litigation. Sears and Izumi are now and have been since 1989 represented in Illinois by Edward L. Foote, Esq., who was until March 1992 also counsel for Windmere in the Southern District of Florida litigation.